

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
Oxford Division

ABRAHAM HOUSE OF GOD AND
CEMETERY, INC.; MR PROPERTY, LLC;
RIYADH ELKHAYYAT; and MAHER
ABUIRSHAD

Plaintiffs,

-against-

CITY OF HORN LAKE; BOARD OF
ALDERMEN OF THE CITY OF HORN LAKE;
PLANNING COMMISSION OF THE CITY OF
HORN LAKE; and ALLEN B. LATIMER in his
official capacity as MAYOR of the CITY OF
HORN LAKE

Defendants.

Civil No. 3:21cv231-MPM-RP

CONSENT DECREE AND ORDER

WHEREAS Plaintiffs Abraham House Of God and Cemetery, Inc.; MR Property, LLC; Riyadh Elkhayyat; and Maher Abuirshaid (collectively, “Plaintiffs”) filed a Complaint against the City of Horn Lake; the Board Of Aldermen of the City of Horn Lake; the Planning Commission of the City of Horn Lake; and Allen B. Latimer in his official capacity as Mayor of the City of Horn Lake (collectively, “Defendants”);

WHEREAS Plaintiffs allege that Defendants have discriminated against Plaintiffs on the basis of religion in violation of their rights under the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. § 2000c *et seq.* (“RLUIPA”) and the First and Fourteenth Amendments to the U.S. Constitution as more fully set out in the Complaint;

WHEREAS, Defendants have denied they discriminated against Plaintiffs on the basis of religion in violation of their rights under RLUIPA and the First and Fourteenth Amendments to the U.S. Constitution;

WHEREAS Plaintiffs' Complaint seeks declaratory and injunctive relief to redress the alleged unlawful conduct, attorneys' fees, and costs;

WHEREAS this Court, entered an Order stating that, after reviewing the allegations of the Complaint, "its initial impression is that it presents very serious, and if proven factually accurate, strong allegations of religious discrimination;"

WHEREAS the Order further stated that the Court intends "to move expeditiously in scheduling a hearing and making a ruling regarding the issues raised," and that "[b]arring . . . a settlement, this court will proceed with all due haste in ascertaining the truth or falsity of the allegations raised in the Complaint;"

WHEREAS Plaintiffs and Defendants (collectively, the "Parties") recognize the importance of the rights protected by RLUIPA and the First and Fourteenth Amendments to the U.S. Constitution;

In the interest of avoiding costly and protracted litigation, the Parties have consented to entry of this Consent Decree and Order;

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Defendants' denial of approval of the February 8, 2021, Site Plan Review Application for the Abraham House of God mosque is null and void.

2. No more than 14 days from the date of this Order, Defendants shall grant approval for the February 8, 2021, Site Plan Review Application for the Abraham House of God (the “Site Plan”), as presented.

3. Upon Defendants’ granting of approval of the Site Plan, Plaintiffs’ claims for declaratory and injunctive relief related to the rejection of the Site Plan by the Planning Commission on February 8, 2021 and/or the denial of the appeal of that decision by the Board of Aldermen on April 20, 2021 shall stand dismissed as moot.

4. Defendants shall consider, process and act upon—without any unusual delay and free from any illegal discriminatory intent or effect—all future construction, permitting, and other applications associated with the construction and operation of the Abraham House of God and development of the property in Horn Lake owned by MR Property, LLC.

5. In addition to the amount set through paragraph 6, Defendants shall pay Plaintiffs \$25,000 within 30 days of this Order by check made payable directly to “MR Property, LLC” for expenses incurred by the Plaintiffs in appealing the denial of the Site Plan to the Board of Aldermen and to state court.

6. Plaintiffs are the prevailing parties and entitled to an award of attorneys’ fees and costs of this suit pursuant to 28 U.S.C. § 1920 and 42 U.S.C. § 1988. Within 30 days of this Order the parties shall attempt to reach an agreement regarding the amount of attorneys’ fees and costs due to Plaintiffs. If they are unable to do so, Plaintiffs may file a motion for attorneys’ fees and costs.

7. Other than as specified in paragraphs 5 and 6, Defendants and their officials, employees, and insurers are released from any claim for damages or other monetary payments based on the rejection of the Site Plan by the Planning Commission on February 8, 2021 or the denial of

the appeal of that decision by the Board of Aldermen on April 20, 2021, which claim, including any that could have been brought herein, are dismissed with prejudice.

8. The Court shall continue to maintain jurisdiction over this action for the purpose of enforcing the terms of this Consent Decree and Order for a period not less than five years following the date of this Order, and continuing beyond that date on a showing of cause.

IT IS SO AGREED

This the 3rd day of January, 2022

For Plaintiffs Abraham House of God and Cemetery, Inc., MR Property, LLC, Riyadh Elkhayyat, and Maher Abuirshaid:

_____/s:/ Joshua Tom_____

Joshua Tom

<p>AMERICAN CIVIL LIBERTIES UNION OF MISSISSIPPI FOUNDATION Joshua Tom (Miss. Bar No. 105392) Landon Thames (Miss. Bar No. 105127) 101 South Congress Street Jackson, MS 39201 (601) 354-3408 JTom@aclu-ms.org LThames@aclu-ms.org</p> <p>SIMPSON THACHER & BARTLETT LLP Jonathan K. Youngwood (<i>pro hac vice</i>) Janet A. Gochman (<i>pro hac vice</i>) 425 Lexington Avenue New York, NY 100017 (212) 455-2000 jyoungwood@stblaw.com jgochman@stblaw.com</p> <p><i>Attorneys for Plaintiffs</i></p>	<p>SIMPSON THACHER & BARTLETT LLP Avia Gridi (<i>pro hac vice</i>) 900 G Street, NW Washington, DC 20001 (202) 636-5500 avia.gridi@stblaw.com</p> <p>AMERICAN CIVIL LIBERTIES UNION FOUNDATION Daniel Mach (<i>pro hac vice</i>) Heather L. Weaver (<i>pro hac vice</i>) 915 15th Street, NW, Suite 600 Washington, DC 20005 (202) 675-2330 dmach@aclu.org hweaver@aclu.org</p>
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For Defendants City of Horn Lake, Board of Aldermen of the City of Horn Lake, Planning Commission of the City of Horn Lake, and Allen B. Latimer in his official capacity as Mayor of the City of Horn Lake:

_____/s:/ Billy Campbell_____

Billy Campbell

HUNT ROSS & ALLEN

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Attorney for Defendants

IT IS SO ORDERED.

DATED: January 3, 2022

_____/s/Michael P. Mills_____
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF MISSISSIPPI